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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
34,155	04/27/79	Robert E. Fischell	Sp153

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EXAMINER	
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ART UNIT	PAPER NUMBER
335	7

DATE MAILED:

MAILED

MAR 13 1980

CLERICAL BRANCH
GROUP 330

This action is made final.

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined. Responsive to communication filed on June 11, 1979

A shortened statutory period for response to this action is set to expire month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited, Form PTO-892. 2. Notice of Informal Patent Drawing, PTO-948.
3. Notice of Informal Patent Application, Form PTO-152. 4.

Part II SUMMARY OF ACTION

1. Claims 1 - 54 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. Claims _____ have been cancelled.
3. Claims _____ are allowed.
4. Claims _____ are rejected.
5. Claims _____ are objected to.
6. Claims 1-15; 16-26; 27-41; 42-46, 51-54; 97-98 are subject to restriction or election requirement.
7. The formal drawings filed on _____ are acceptable.
8. The drawing correction request filed on _____ has been approved. disapproved.
9. Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has
 been received. not been received. been filed in parent application, serial no. _____
filed on _____
10. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
11. Other

Restriction Requirement

Restriction is required under 35 USC 121 between the following inventions:

- I. Claims 1-1⁵ which are drawn to an implantable dosing device, classified in class 128.213R.
- II. Claims 1⁶-26 which are drawn to a medicinal pump having an electric motor and collapsing wall movement, classified in Class 417 /412.
- III. Claims 27-41 directed to a programmable infusion system classified in class 128/213R.
- IV. Claims 42-46, 51-5⁴ which are drawn to a method and apparatus for patient interactive medicinal infusion, classified in class 128/213R.
- V. Claims 47-50 directed to a method of placing medicaments beneath the skin, classifiable in 128/215.

The inventions as above-grouped are distinct because claims directed to the implantable dosing device (2), the plate-and-bellows pump (28), the implant command circuitry (30) and charging (9) and communicating (30) assemblies, the patient interactive unit (400) and method of programming the same, and the method (7,⁴) of depositing medicaments beneath the skin have utility in and of themselves and could be each usable with other and in other relation with devices of a different but compatible type.

In addition to the above showing of distinctness a burden is placed on the office (see MPEP 808.02) because each of the above categories requires at least some separate areas of search, for example Group I would require search of class 128/632 device which diagnose and respond to body liquid of I.V. dosing device 128/214.4, and of depositors/applicators class 128/260; Group II must be searched for the reservoir, valving and pressure monitoring features in class 417, pumps; Group III would require search for command & telemetry features among telemetry-controlled pacemakers (128/419P) and neuromuscular stimulators (128/422); Group IV requires search of programming methods in medicine and health (Class 364/413); Group V includes search of Class 128/213R.

Also inventions regarding fluidic components, e.g. Group I features enjoy a separate status within the art from electronic control features, e.g. Group III. .

To be complete applicant's response must include an election of one of the above identified inventions even though the requirement is traversed.

It is noted that the claims of Group I include several species of the generic invention; for example the body implant, Figs. 2-4 and the alternative embodiment skull implant, see specification, page 19, bottom paragraph. If this group is elected, the applicant is further required to elect a single disclosed species, as identified above, and indicate the claims readable thereon.

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03/07/80

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GROUP ART UNIT 335